

HIV/STD and Sex Education in Michigan Public Schools

A Summary of Legal Obligations and Best Practices



This chart was revised to reflect the changes in laws affected by Public Acts 165 and 166 of 2004, effective 6/04. Michigan Compiled Laws (MCL) numbers are cited, and a key is included below.

Key to Michigan Compiled Laws Regarding HIV/STD and Sex Education			
MCL No.	Public Act	Last Action	Focus
380.1169	School Code	Amended 6/04	Dangerous communicable diseases; human immunodeficiency virus infection and acquired immunodeficiency virus infection; teacher training; teaching materials; curricula; teaching of abstinence from sex.
380.1506	School Code	Amended 11/77	Program of instruction in reproductive health; supervision; request to excuse pupil from attendance; “reproductive health” defined.
380.1507	School Code	Amended 6/04	Instruction in sex education; instructors, facilities, and equipment; stressing abstinence from sex; elective class; notice to parent or guardian; request to excuse pupil from attendance; qualifications of teacher; sex education advisory board; public hearing; distribution of family planning drug or device prohibited; “family planning,” “class,” and “course” defined.
380.1507a	School Code	Added 7/96	Notice of excuse from class; enrollment.
380.1507b	School Code	Amended 6/04	Sex education and instruction; curriculum requirements.
388.1766	State Aid Act	Amended 7/96	Dispensing or distributing family planning or drug or device, dispensing prescriptions for family planning drug, or making referrals for abortion; forfeiture.
388.1766a	State Aid Act	Added 6/04	Instruction in reproductive health or other sex education; complaint process.

Mandated HIV and Allowed Sex Education	<p>School districts are required to teach about dangerous communicable diseases, including, but not limited to, HIV/AIDS. <i>§380.1169</i> Instruction regarding dangerous communicable diseases, including, but not limited to, HIV/AIDS, must be offered at least once a year at every building level (elementary, middle/junior, senior high).</p> <p>School districts can choose to teach sex education. If they do, they must do so in accordance with those sections of the Michigan Compiled Laws related to sex education and reproductive health. (<i>§380.1506, §380.1507, §380.1507a, §380.1507b, §388.1766, §388.1766a</i>)</p>
Parental Rights and Exclusion From Instruction	<p>For HIV/AIDS and sex education instruction, parents and/or legal guardians must be notified in advance of:</p> <ul style="list-style-type: none"> • The content of the instruction. • Their right to review materials in advance. • Their right to observe instruction. • Their right to excuse their child without penalty. (<i>§380.1507</i>) <p>For sex education only, if a parent or legal guardian files a continuing written notice (i.e., a request to have their child permanently excluded from sex education classes), the student shall not be enrolled in the class(es) unless the parent or legal guardian submits a written authorization for that enrollment. (<i>§380.1507a</i>)</p>

<p>Sex Education Advisory Board Membership</p>	<p>Every district that chooses to implement sex education must have a sex education advisory board.</p> <ul style="list-style-type: none"> • The local school board determines the terms of service, the number of members, and a membership selection process that reasonably reflects the school district population. • The advisory board must include: parents of children attending the district's schools, pupils in the district's schools, educators, local clergy, and community health professionals. • At least half of the members must be parents who have a child attending a school operated by the school district. A majority of those parent members must not be employed by a school district. • Members must be given two weeks written or electronic notice of meetings. (§380.1507)
<p>Sex Education Advisory Board Role</p>	<p>The advisory board is responsible for:</p> <ul style="list-style-type: none"> • Establishing program goals and objectives for pupil knowledge and skills that are likely to reduce the rates of sex, pregnancy, and STDs. • Reviewing and recommending materials and methods to the board, taking into consideration the district's needs, demographics, and trends including, but not limited to, teenage pregnancy rates, STD rates, and incidents of sexual violence and harassment. • Evaluating, measuring, and reporting the attainment of program goals and objectives and making the resulting report available to parents in the district at least once every two years. (§380.1507)
<p>Advisory Board Chairs</p>	<p>Two co-chairs must be appointed by the school board to chair the sex education advisory board, at least one of whom is a parent of a child attending a school operated by the school district. (§380.1507)</p>
<p>Sex Education Supervisor</p>	<p>Every district choosing to have a sex education program must have a sex education supervisor, approved by the Michigan Department of Education, who oversees the program of instruction. (§380.1506, §380.1507)</p>
<p>Required Content Including Emphasis on Abstinence</p>	<p>Instruction in HIV/AIDS and sex education must stress that abstinence from sex is a responsible and effective method of preventing unplanned or out-of-wedlock pregnancy, and that it is the only protection that is 100% effective against unplanned pregnancy, sexually transmitted disease, and sexually transmitted HIV infection and AIDS. (§380.1169, §380.1507, §380.1507b)</p> <p>Instruction in HIV/AIDS must include the principal modes by which dangerous communicable diseases are spread and the best methods for the restriction and prevention of these diseases. (§380.1169)</p> <p>Sex education material discussing sex must be age-appropriate, must not be medically inaccurate, and must do all of the following:</p> <ul style="list-style-type: none"> • Discuss the benefits of abstaining from sex until marriage and the benefits of ceasing sex if a pupil is sexually active. • Include a discussion of the possible emotional, economic, and legal consequences of sex. • Stress that unplanned pregnancy and sexually transmitted diseases are serious possibilities of sexual intercourse that are not fully preventable except by abstinence. • Advise pupils of the laws pertaining to their responsibility as parents to children born in and out of wedlock. • Teach pupils how to say "no" to sexual advances and that is wrong to take advantage of, harass, or exploit another person sexually. • Teach refusal skills and encourage pupils to resist pressure to engage in risky behavior. • Teach that the pupil has the power to control personal behavior, and teach pupils to base their actions on reasoning, self-discipline, a sense of responsibility, self-control, and ethical considerations, such as respect for self and others.

<p>Required Content Including Emphasis on Abstinence (cont.)</p>	<ul style="list-style-type: none"> • Provide instruction on healthy dating relationships and on how to set limits and recognize a dangerous environment. • Provide information for pupils about how young parents can learn more about adoption services and about the provisions of the Safe Delivery of Newborns Law. • Include information clearly informing pupils that having sex or sexual contact with an individual under the age of 16 is a crime punishable by imprisonment and that one of the other results of being convicted of this crime is to be listed on the sex offender registry on the internet for up to 25 years. (§380.1507b)
<p>Allowed Content Regarding Risk Reduction</p>	<p>School districts must teach about the best methods for the restriction and prevention of dangerous communicable diseases, including, but not limited to HIV/AIDS. (§380.1169)</p> <p>Districts are not prohibited from teaching about behavioral risk reduction strategies, including the use of condoms, within their sex education program. (§380.1507)</p>
<p>Prohibited Content or Actions</p>	<p>The age-appropriate sex education material also must ensure that pupils are not taught in a way that condones the violation of laws of this state pertaining to sexuality, including, but not limited to, those relating to sodomy, indecent exposure, gross indecency, and criminal sexual conduct in the first, second, third, and fourth degrees. (§380.1507b)</p> <p>Clinical abortion cannot be considered a method of family planning, nor can abortion be taught as a method of reproductive health. (§380.1507) “Reproductive health” means that state of an individual's well-being which involves the reproductive system and its physiological, psychological, and endocrinological functions. (§380.1506)</p> <p>A person cannot dispense or otherwise distribute a family planning drug or device in a public school or on public school property. (§380.1507)</p>
<p>Definition of Sex Education</p>	<p>Every district choosing to have a sex education program needs to develop or adopt a definition of sex education. The definition determines which content and materials are considered “sex education” and need to go through the approval and parent notification process detailed in §380.1507 and §388.1766a.</p>
<p>Approval Process</p>	<p>Curricula that are used as a part of HIV/STD or sex education instruction offered by a school district must go through the formal approval process, including two public hearings and school board approval. (§380.1169, §380.1507)</p> <p>Curricula, materials, and methods must be approved in advance regardless of the:</p> <ul style="list-style-type: none"> • class in which it is taught (e.g., health class, school-wide assembly, English class); • person providing the instruction (teacher, school nurse, guest speaker); • time of day the instruction is offered (during the school day versus after school); or • place the instruction takes place (within the building versus off the school premises).
<p>Teacher Training</p>	<p>Each person who teaches K-12 pupils about HIV/AIDS shall have training in HIV and AIDS education for young people. (§380.1169)</p> <p>Training requirements for teachers of sex education as well as the determination of who is “qualified” to teach sex education are determined by the local school district.</p> <p>Trainings in both HIV/AIDS and sex education/reproductive health are usually offered through the regional ISD or RESA school health coordinator that services that school district. Guest speakers are not required by law to go through these trainings. A trained teacher, however, should always be in the classroom when guest speakers are presenting.</p>

<p>Model Curricula</p>	<p>Michigan has a model health education curriculum that is used by a majority of school districts in Michigan. In HIV/STD prevention, there are model curricula for grades K-6 and grades 7-8. The K-6 lessons include one to two lessons per grade level. The seven-lesson middle school module is “abstinence-only” (i.e., condoms are not discussed as a means of risk reduction). Districts can choose to adopt, adapt, or disregard the model curriculum and implement commercially or locally developed curricula.</p>
<p>Complaint Process</p>	<p>If a parent or legal guardian of a pupil enrolled in a district or intermediate district (ISD) believes that the district or intermediate district has violated the following sections of Michigan law pertaining to HIV/AIDS instruction or sex education (§380.1169, §380.1506, §380.1507, §388.1766a), the person can file a complaint with the superintendent or chief administrator of the district or ISD in which the pupil is enrolled. The district has 30 days to investigate, provide a written report, and if violations are found, develop a plan for corrective action. The district has an additional 30 days to take corrective action.</p> <p>If the parent is not satisfied with the investigation or findings made by the superintendent, the parent can appeal the findings to the ISD in which the district is located. The ISD has 30 days to investigate, provide a written report, and if violations are found, develop a plan for corrective action. The district has an additional 30 days to take corrective action.</p> <p>If the parent is not satisfied with the investigation or findings made by the ISD superintendent, the parent can appeal the findings to the Michigan Department of Education (MDE). The MDE has 90 days to investigate, provide a written report, and if violations are found, develop a plan for corrective action. The district has an additional 30 days to take corrective action. (§380.1766)</p>
<p>Penalties</p>	<p>If an investigation conducted by MDE (see Complaint Process section) reveals that a district or ISD has committed one or more violations of the following sections of the Revised School Code or State School Aid Act (§380.1169, §380.1506, §380.1507, §388.1766a) the district or intermediate district shall forfeit an amount equal to 1% of its total state school aid allocation. (§388.1766a)</p> <p>A district in which a school official, member of a board, or other person dispenses or otherwise distributes a family planning drug or device, dispenses prescriptions for any family planning drug, or makes referrals for abortions shall forfeit 5% of its total state aid appropriation. (§388.1766)</p>
<p>State Board Policy</p>	<p>The Michigan State Board of Education adopted a Policy to Promote Health and Prevent Disease and Pregnancy in September of 2003. The policy recommends that local school boards select, adopt, and implement comprehensive sexuality education programs that are based on sound science and proven principles of instruction. For a copy, go to www.michigan.gov/mde, click “K-12 Curriculum”, click “Health Education”, and click “HIV/STD and Sexuality Education”.</p>

For more information on HIV/STD Education in Michigan Schools, go to the Michigan Department of Education (MDE) web site, www.michigan.gov/mde, click “K-12 Curriculum”, click “Health Education”, and click “HIV/STD and Sexuality Education”. Questions should be directed to Laurie Bechhofer, MDE Consultant, 517-335-7252, bechhoferl@Michigan.gov.

This summary should not be used to replace statute. For the exact language of Michigan Compiled Laws, go to www.michiganlegislature.org. Concerns regarding interpretation should be directed to legal counsel.

